

August 12, 1970

CONGRESSIONAL RECORD — SENATE

S13317

try, and our world. Surely a war on illegal drugs is a war worth fighting.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GOODELL TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of the vote tomorrow on the amendment offered by the able Senator from Wisconsin (Mr. PROXMIER) — which is presently scheduled for 12 o'clock noon, I believe — the able Senator from New York (Mr. GOODELL) be recognized for not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF DEFENSE PRODUCTION ACT OF 1950—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3302) to amend the Defense Production Act of 1950, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. SCHWEIKER). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(For conference report, see House proceedings of August 10, 1970, pp. H8045-H8046, CONGRESSIONAL RECORD.)

Mr. SPARKMAN. Mr. President, a conference committee between the House and Senate met on Thursday, August 6 to resolve the differences between the House and Senate versions of S. 3302.

The Senate version of S. 3302 authorized the establishment of uniform cost accounting standards to be applied to all defense contracts in excess of \$100,000. The standards would be developed by a five-man Accounting Principles Board headed by the Comptroller General.

The House bill established a similar Accounting Principles Board; however, the accounting standards could not have been put into effect unless Congress enacted subsequent legislation.

The conference committee agreed to accept the Senate version with two amendments. The first amendment required that one of the accounting members of the Board have a background in the accounting problems of small business firms. The second amendment requires that Congress be notified in advance of all standards and regulations promulgated by the Board and be given a 60-day opportunity to rescind these standards or regulations by concurrent resolution of both Houses of Congress.

The requirement for congressional notification would not, however, apply to modifications of standards or regulations already promulgated.

The Senate bill also contained a provision limiting the loan guarantee authority under the Defense Production Act to \$20 million and preventing any guarantees from being used primarily for the purpose of preventing the insolvency or bankruptcy of a firm unless the President certified defense production would be directly and substantially affected. The House conferees agreed to accept the Senate language.

Finally, Mr. President, the House bill contained a provision giving the President standby authority to control wages, salaries, prices and rents. This authority would expire on February 28, 1971. This provision was agreed to by the Senate conferees.

Mr. President, I move the adoption of the conference report.

Mr. BENNETT. Mr. President, although I was a conferee on the bill, I was unable to attend the conference; but had I been there, I would not have signed the report.

Title II, which was in the House bill, to which the chairman referred last, gives the President the power to impose wage and price controls for a period of 6 months. That reminds me of giving a fireman authority to use a water supply for only 30 minutes in case of a three-alarm fire. To me, that provision is entirely political, and it is interesting that it will expire as soon as the 1970 elections are over.

The President has made it perfectly clear that he does not believe that the use of price, wage, and rent controls is the way to solve the inflation problem which he inherited. He has made it perfectly clear that he does not intend to use this power which the bill forces on him. So it is obvious to me, at least, that the purpose of writing this into the law is so that the President's political opponents can say, "We gave you the power; inflation is not solved; therefore, you are responsible for the inflation."

I am certain that the President has courage enough to survive that kind of attack, but I am disturbed that we would write what to me is a completely political feature into a bill so far removed, whose purpose is to extend the defense production act.

Also, I am one of those who have not agreed with the method contained in the bill to set up the accounting standards board. I think it is a serious mistake, a compromise of sound constitutional government and the separation of powers.

When this matter was before the Senate Committee on Banking and Currency, I offered an amendment which would have set up a cost accounting board consisting of the Comptroller General and four members to be appointed by the President, subject to the advice and consent of the Senate.

My amendment was defeated in the committee by a tie vote and, consequently, when it was offered in the Senate, it was defeated by a tie vote on party grounds.

I think that a review of contract cost

performance should be performed by an independent body. By placing this authority in the board, to be approved by the Senate, I think we would have guaranteed that independence. The provision in the pending bill, in my opinion, fails because the independence of its Members will have already been compromised by their very appointment. While the Comptroller General of the United States remains chairman under both approaches, under the approach approved in the bill he himself will appoint the members of the board and, therefore, they are subject to his pressure.

The Comptroller General of the United States, Mr. Elmer Staats, in testimony before the Senate Banking and Currency Committee, opposed the provision which the bill finally contained. He argued that members of the board should have been independently appointed by the President to represent the accounting profession, small business, as well as industry and government. But, by rejecting the position taken by the President, the Comptroller General—and, incidentally, by himself—the bill has now set up a board which has no real independence.

Mr. President, I realize that under the circumstances, these comments and criticisms of mine are more or less meaningless because we have gone too far down the legislative path to change that path.

Mr. SPARKMAN. Mr. President, will the Senator from Utah yield?

Mr. BENNETT. I yield.

Mr. SPARKMAN. With reference to setting up the board, of course, the Senator will remember that we discussed it at length in the committee. I had some sympathy with his viewpoint, but the Senator will recall that the Comptroller General particularly requested this kind of setup.

But, so far as the conference itself was concerned, I do not recall that we had any choice, because the House had set up practically the same language. About the only change that was made in the conference was that they had, I believe, a provision in there that one of the accounting members had to be a man who had experience in small business. We accepted that. That is about the only difference that prevailed between the two Houses so far as setting up the board was concerned.

Mr. BENNETT. I recognize that this is a kind of expression of frustration on my part, but I cannot let the conference report be approved without expressing my disappointment in these two features; namely, the feature with respect to which we picked up from the House setting up the 6-month system, under which the President may impose wage and price controls which, I think, is for the purpose of embarrassing him politically; and then the feature—

Mr. SPARKMAN. Will the Senator from Utah yield there further?

Mr. BENNETT. I yield.

Mr. SPARKMAN. So far as the Senate is concerned, I think that I can say we did not feel it was a political matter. I think the Senator has heard me say we would never have to have wage and price controls. It is unsatisfactory from the standpoint of

August 12, 1970

setting it up, and also unsatisfactory from the standpoint of administering the program.

I therefore certainly hope that the President will not have to set up wage and price controls. I hope that inflation will start a downward turn so that we can get out of that problem. But that was the situation, and it was a practical situation that we were met with. We did not consider that in the Senate at all.

Mr. BENNETT. No.

Mr. SPARKMAN. We did not consider it at all. We did pass, a couple of years ago, a provision that gave the President the option to use credit controls, either voluntarily or mandatorily. The Senator will remember that. But we were faced with a realistic situation. The rolleall in the House, which appears on page H7547 of the CONGRESSIONAL RECORD of July 31, 1970, shows that the vote was 257 for it and only 19 against.

Only 19 Representatives voted against it. About a dozen of those 19 were Republicans, but nearly all the other Republicans joined in. I have forgotten what the total was, but the Republican leader over there voted for it, and the assistant leader over there voted for it—practically every one of the Republicans.

Several of the 19 were Democrats. As I say, the majority leader and the assistant majority leader voted for it. So, who were we to question this being a political matter?

Mr. PROXMIRE. If the Senator will yield on that point, I should like to point out, furthermore, that of the three Republicans in the conference committee, two of them voted for the price-wage controls in the House vote, including the distinguished ranking member of the House Banking Committee, Representative WIDNALL and Congressman MIZE, so that we were in a position in that conference where the House was overwhelmingly united on this particular position.

Mr. BENNETT. That still does not prevent me from claiming the privilege of expressing my disappointment in the results of the conference.

I have talked at some length about this problem at other times. I have talked about it before the committee. I was trying to manage a business during World War II and part of the Korean war, trying to wrestle from that point of view with the wage and price control problem. I discovered, and the record will bear me out, that wage and price controls do not control inflation; that there are so many ways to get around it, and that the rate of inflation during World War II, when those controls were in effect, was at exactly the same rate 5 years after the controls had been lifted. Thus, it is a delusion and a snare.

Well, Mr. President, I have had the opportunity to express my disappointment. I shall have nothing more to say about the report except to say that I should like to be recorded as opposing it.

Mr. PROXMIRE. Mr. President, I want to commend the fine work of the chairman of the Senate Banking Committee, Senator SPARKMAN, and the chairman of its Subcommittee on Production and Stabilization, Senator MONDALE for

their leadership on the extension of the Defense Production Act and the provision dealing with uniform cost accounting standards. I was most gratified that the House-Senate conference committee agreed to adopt substantially the Senate provisions concerning uniform cost accounting standards.

The bill passed by the Senate by an overwhelming vote of 69 to 1 would have required the adoption of uniform cost accounting standards on all Government contracts in excess of \$100,000. These standards would have been promulgated by a five-man accounting board appointed by the Comptroller General who would serve as its chairman.

While the House bill established a similar accounting board, the regulations could not have been put into effect unless Congress enacted subsequent legislation. In my view, this provision would have completely negated the intent of the Comptroller General's report which concluded that uniform cost accounting standards on Government contracts were both feasible and desirable. In view of the billions of dollars a year being wasted by the Defense Department, it is time we put these standards into effect without further delay.

In that connection, the bill agreed to by the House-Senate conference committee authorizes the accounting principles board to promulgate regulations without the need for coming back to Congress for additional legislation. The bill also requires the board to report to Congress within 2 years concerning their progress in promulgating cost accounting standards. In view of the urgent need to put these standards into effect as soon as possible, I would hope that the bulk of these regulations would be completed and issued within the 2-year period. No doubt, these regulations can be subsequently refined, modified and amended on a continuing basis; however, it seems entirely reasonable to assume that the major task of the accounting board can be completed within the initial 2-year period.

Mr. President, again I wish to thank the distinguished chairman of our committee and the able chairman of the Subcommittee on Production and Stabilization for their excellent cooperation and assistance in getting this long overdue reform enacted into law.

Mr. TOWER. Mr. President, I must express my objections to the uniform cost accounting bill which we are voting on today. This measure has been characterized as totally impractical as a matter of accounting science because of the diversity of products, firms, and cost factors involved in defense contracting. I am not opposed to tightening up the procedures by which the Defense Department and the General Accounting Office assess the effectiveness of the expenditure of our tax dollars for defense procurement. But to require the General Accounting Office and the Accounting Board created in this bill to work out uniform standards for all defense contractors seems to be entirely impractical.

The Associate Director of the Defense Division of the General Accounting Office testified that in 99 percent of the

cases the GAO can determine costs adequately from their knowledge of the accounting practices of various types of contractors and product lines. To cause all of these contractors to change over their accounting systems to some "uniform" system would be tremendously expensive, and would cost the firms more than the system could save, therefore resulting in higher prices for defense products.

Of the two versions of this bill, the House bill was much preferable because it gave Congress a chance to assess whatever standards are arrived at by the Board, and to determine whether they were too detailed to be feasible to implement. The Senate version, which was adopted in conference, does not give Congress the chance to review these standards. I think this is a mistake.

I intend to watch the developments that arise from this legislation closely in the coming months, and I hope that Congress will reconsider the wisdom of this measure at the beginning of the next Congress.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the adoption of the conference report.

The report was agreed to.

Mr. SPARKMAN. Mr. President, I move that the Senate reconsider the vote by which the conference report was agreed to.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

Mr. TALMADGE. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

The Senate resumed the consideration of the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

THE C-5A

Mr. TALMADGE. Mr. President, the distinguished senior Senator from Michigan was kind enough to send to my office an amendment which he proposes to offer to the military procurement act which relates to the C-5A. A preliminary

in the arena of Federalism, since the Federal Government—to realize the ideals of liberty, equality and justice.

The "non-system" is near a breakdown at some points in government, he said, since it operates under cumbersome, outmoded, overlapping procedures.

A pillar of New Federalism is revenue-sharing. Richardson pointed out that localities face diminishing sources of tax revenues, while Uncle Sam has prospects of increasing collections. This dollar mismatch would be corrected under the Nixon plan of sharing Federal wealth with local government. It would, Richardson declared, be a means of decentralizing government, moving the administrative authority closer to the areas in which problems exist.

Richardson said the present grant system is paralyzing government. Red tape requires hours of bookwork by grant applicants and a vast Federal establishment for processing. The solution, he stated, is not in retreat, but in reform.

The Administration, he declared, is moving on these four fronts to straighten out the labyrinthian maze that has frustrated the functioning of many Federal programs now in existence:

Grant consolidation—The President has sought authority to consolidate existing grant-in-aid categories. Richardson noted that there are five library grant programs, seven medical library grant programs. There are nine vocational educational formula grant programs and six project grant authorizations.

Fund transfers—This plan would allow Governors to transfer up to 20 percent of Federal grant funds from any one program to another of higher priority. Thus, funds could be directed to high-priority programs, instead of being spent where there is little need.

Grant streamlining—Getting a Federal grant is a laborious process now. Processing involves 28 steps, with up to 50 actions required under each step.

The Administration already has cut out 867 man-years by eliminating some of these steps. Some 182 of the 518 steps were cut out of 23 projects in a special HEW pilot study.

Decentralization—The Administration has moved decisively in its effort to bring the Government back to the people, Richardson said. Regional officers are given more authority. The various domestic agencies now have the same regional boundaries with headquarters in the same cities, slashing travel time required.

State and local leadership will be upgraded under the New Federalism, Richardson said.

FISCAL RESPONSIBILITY ACT OF 1970

(Mr. BOW asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BOW. Mr. Speaker, today a majority of the Republican members of the Appropriations Committee and the Republican leadership are joining together to introduce the "Fiscal Responsibility Act of 1970." This act would establish a new limitation on spending for fiscal year 1971 that will enable Congress to control the results of its own actions on individual appropriation bills.

For the benefit of the Members I include the following statement explaining the various sections of the bill:

STATEMENT

Section 1 of the bill would establish a limitation of \$205,000,000,000 on expenditures and

Limitations of the same general nature have been established in several recent fiscal years.

The figure of \$205,000,000,000 is the revised estimate of budget outlays for fiscal 1971 which was made by the President in his statement of May 19, 1970. It reflects increases, over the original February Budget estimate (\$200,800,000,000), of \$2.3 billion in uncontrollable programs and \$2.5 billion in other programs.

Section 2 of the bill would provide for increasing the limitation by the amount of increases, over the May 19 estimate, in certain designated uncontrollable programs, such as Social Security benefits, interest, veterans' benefits, and farm price supports. Similar provisions for adjustments in limitations on outlays have been contained in comparable legislation enacted in several recent fiscal years.

Section 3 of the bill would provide for further adjustments in the limitation on outlays in the event of a shortfall of estimated receipts from the sale or lease of certain Government assets, such as mortgaged properties held by the Department of Housing and Urban Development and the Veterans Administration and leases of lands on the Outer Continental Shelf. Similar provisions for adjustments have been contained in other comparable legislation establishing limitations on outlays.

Section 4 of the bill is intended to prevent the limitation on outlays, as adjusted for increases in uncontrollable items and shortfalls in estimated receipts, from being exceeded because of action by the Congress which would increase expenditures above the President's estimates. This section would require the Director of the Office of Management and Budget, at the close of the current session of Congress, to report to the President and to the Congress his estimate of the effect of Congressional action on expenditures recommended by the President. If the Director's estimate indicated that expenditures would exceed the adjusted limitation, the Director would be required to specify the pro rata reduction in expenditures, for each activity increased by the Congress, which would be necessary to bring total budget outlays within the adjusted limitation. Agencies would be required to manage their programs so that outlays would not exceed the reduced figures specified by the Director. There are no exceptions.

Section 4 thus provides a method by which Congress would control the results of its own actions on individual appropriation bills. This is in marked contrast to bills establishing outlays in previous years because such bills generally have established a limitation which was increased when Congress increased appropriations for individual activities beyond the President's estimates.

Section 5 of the draft bill relates to the method of distributing funds for activities which involve the application of a formula to the amount appropriated. As in the case of some of the previous statutes establishing limitations, this section would provide that the reduced amount available for any particular activity—in accordance with the determination made by the Director of the Office of Management and Budget—be substituted for the amount appropriated when applying the formula. This section also provides that the Government shall not be liable for any difference between the amount appropriated and the amount as reduced to comply with the limitation.

Section 6 would repeal Title V of the Second Supplemental Appropriations Act, 1970. That title establishes a limitation on outlays which would be increased whenever appropriations by the Congress might be in excess of the President's recommendations.

(Mr. MORSE asked and was given

permission to extend his remarks at this point in the Record and to include extraneous matter.)

[Mr. MORSE'S remarks will appear hereafter in the Extensions of Remarks.]

LEGISLATIVE REORGANIZATION ACT OF 1970

(Mr. SCHWENGEL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SCHWENGEL. Mr. Speaker, I would like to paraphrase the lyrics from the musical play "1776" to indicate my feelings on the subject of congressional reform in 1970:

On this humid Monday morning in this congressional incubator,
We're waiting for the chirp, chirp, chirp,
of Congress being reformed.

We're waiting for the scratch, scratch,
scratch, of that tiny fellow being born,

God knows it's hot enough to hatch a stone, but will it hatch an egg, the egg of congressional reform?

Dear God!

For four solid weeks we've been sitting here.

Four weeks! Doing very little on reform! I do believe you've laid a curse on North America

A curse that we once rehearsed in Philadelphia.

A second flood, a simple famine, plagues of locusts everywhere

Or a cataclysmic earthquake I'd accept with some despair.

But no! You send us Congress! Good God, Sir was that fair?

I say this with humility in Washington We're your responsibility in Washington

If you don't want to see us hanging from some far-off voting booth,

If you don't want the voice of independence to be forever stilled

Then God Sir—get Thee with it!!

For Congress never will.

You see, we piddle, twiddle, and resolve, not one damn thing do we solve

or evolves that changes things Piddle, twiddle, and resolve—nothing's ever solved.

In foul, feated, fuming, foggy, filthy, Washington.

Good God!

We may sit here for years and years in Washington.

These indecisive grenadiers of Washington.

They can't agree on what is right and wrong or what is good or bad.

I'm convinced the only purpose this Congress ever had

Was to gather here specifically to drive Fred Schwengel mad!!

You see, we piddle, twiddle, and resolve, not one damn thing do we solve

In foul, feated, fuming, foggy, filthy, Washington.

Dear God!

Is anybody there?

Does anybody care?

AMENDMENT OF DEFENSE PRODUCTION ACT OF 1950—CONFERENCE REPORT

Mr. PATMAN submitted the following conference report and statement on the

bill S. 3302) to amend the Defense Production Act of 1950:

CONFERENCE REPORT (H. REPT. 91-1386)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3302) to amend the Defense Production Act of 1950, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

**TITLE I—DEFENSE PRODUCTION ACT
AMENDMENTS**

§ 101. Extension of Act

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended—

(1) by striking out "August 15, 1970" and inserting in lieu thereof "June 30, 1972"; and

(2) by striking out "section 714" and inserting in lieu thereof "sections 714 and 719".

§ 102. Definitions

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended—

(1) by inserting "space," after "stockpiling," in subsection (d); and

(2) by adding at the end thereof a new subsection as follows:

"(f) The term 'defense contractor' means any person who enters into a contract with the United States for the production of material or the performance of services for the national defense."

§ 103. Uniform cost-accounting standards

Title VII of the Defense Production Act of 1950 is amended by adding at the end thereof a new section as follows.

"COST-ACCOUNTING STANDARDS BOARD

"Sec. 719. (a) There is established, as an agent of the Congress, a Cost-Accounting Standards Board which shall be independent of the executive departments and shall consist of the Comptroller General of the United States who shall serve as Chairman of the Board and four members to be appointed by the Comptroller General. Of the members appointed to the Board, two, of whom one shall be particularly knowledgeable about the cost accounting problems of small business, shall be from the accounting profession, one shall be representative of industry, and one shall be from a department or agency of the Federal Government who shall be appointed with the consent of the head of the department or agency concerned. The term of office of each of the appointed members of the Board shall be four years, except that any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed. Each member of the Board appointed from private life shall receive compensation at the rate of one two-hundred-sixtieth of the rate prescribed for level IV of the Federal Executive Salary Schedule for each day (including traveltime) in which he is engaged in the actual performance of duties vested in the Board.

"(b) The Board shall have the power to appoint, fix the compensation of, and remove an executive secretary and two additional staff members without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to appointment in the competitive service. The executive secretary and the two additional staff members may be paid compensation at rates not to exceed the rates prescribed for levels IV and V of the Federal Executive Salary Schedule, respectively.

"(c) The Board is authorized to appoint and fix the compensation of such other personnel as the Board deems necessary to carry out its functions.

"(d) The Board may utilize personnel from the Federal Government (with the consent of the head of the agency concerned) or appoint personnel from private life without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to appointment in the competitive service, to serve on advisory committees and task forces to assist the Board in carrying out its functions and responsibilities under this section.

"(e) Except as otherwise provided in subsection (a), members of the Board and officers or employees of other agencies of the Federal Government utilized under this section shall receive no compensation for their services as such but shall continue to receive the compensation of their regular positions. Appointees under subsection (d) from private life shall receive compensation at rates fixed by the Board, not to exceed one two-hundred-sixtieth of the rate prescribed for level V in the Federal Executive Salary Schedule for each day (including traveltime) in which they are engaged in the actual performance of their duties as prescribed by the Board. While serving away from their homes or regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with section 5703 of title 5, United States Code.

"(f) All departments and agencies of the Government are authorized to cooperate with the Board and to furnish information, appropriate personnel with or without reimbursement, and such financial and other assistance as may be agreed to between the Board and the department or agency concerned.

"(g) The Board shall from time to time promulgate cost-accounting standards designed to achieve uniformity and consistency in the cost-accounting principles followed by defense contractors and subcontractors under Federal contracts. Such promulgated standards shall be used by all relevant Federal agencies and by defense contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing, administration and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of \$100,000, other than contracts or subcontracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. In promulgating such standards the Board shall take into account the probable costs of implementation compared to the probable benefits.

"(h) (1) The Board is authorized to make, promulgate, amend, and rescind rules and regulations for the implementation of cost-accounting standards promulgated under subsection (g). Such regulations shall require defense contractors and subcontractors as a condition of contracting to disclose in writing their cost-accounting principles, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs, and to agree to a contract price adjustment, with interest, for any increased costs paid to the defense contractor by the United States because of the defense contractor's failure to comply with duly promulgated cost-accounting standards or to follow consistently his disclosed cost-accounting practices in pricing contract proposals and in accumulating and reporting contract performance cost data. Such interest shall not exceed 7 per centum per annum measured from the time such payments were made to the contractor or

subcontractor to the time such price adjustment is effected. If the parties fail to agree as to whether the defense contractor or subcontractor has complied with cost-accounting standards, the rules and regulations relating thereto, and cost adjustments demanded by the United States, such disagreement will constitute a dispute under the contract dispute clause.

"(2) The Board is authorized, as soon as practicable after the date of enactment of this section, to prescribe rules and regulations exempting from the requirements of this section such classes or categories of defense contractors or subcontractors under contracts negotiated in connection with national defense procurements as it determines, on the basis of the size of the contracts involved or otherwise, are appropriate and consistent with the purposes sought to be achieved by this section.

"(3) Cost-accounting standards promulgated under subsection (g) and rules and regulations prescribed under this subsection shall take effect not earlier than the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which a copy of the proposed standards, rules, or regulations is transmitted to the Congress; if, between the date of transmittal and the expiration of such sixty-day period, there is not passed by the two Houses a concurrent resolution stating in substance that the Congress does not favor the proposed standards, rules, or regulations. For the purposes of this subparagraph, in the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die. The provisions of this paragraph do not apply to modifications of cost accounting standards, rules, or regulations which have become effective in conformity with those provisions.

"(i) (A) Prior to the promulgation under this section of rules, regulations, cost-accounting standards, and modifications thereof, notice of the action proposed to be taken, including a description of the terms and substance thereof, shall be published in the Federal Register. All parties affected thereby shall be afforded a period of not less than thirty days after such publication in which to submit their views and comments with respect to the action proposed to be taken. After full consideration of the views and comments so submitted the Board may promulgate rules, regulations, cost-accounting standards, and modifications thereof which shall have the full force and effect of law and shall become effective not later than the start of the second fiscal quarter beginning after the expiration of not less than thirty days after publication in the Federal Register.

"(B) The functions exercised under this section are excluded from the operation of sections 551, 553-559, and 701-706 of title 5, United States Code.

"(C) The provisions of paragraph (A) of this subsection shall not be applicable to rules and regulations prescribed by the Board pursuant to subsection (h) (2).

"(j) For the purpose of determining whether a defense contractor or subcontractor has complied with duly promulgated cost-accounting standards and has followed consistently his disclosed cost-accounting practices, any authorized representative of the head of the agency concerned, of the Board, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost-accounting standards and principles.

"(k) The Board shall report to the Congress, not later than twenty-four months after the date of enactment of this section,

H 8046

CONGRESSIONAL RECORD — HOUSE

August 10, 1970

concerning its progress in promulgating cost-accounting standards under subsection (g) and rules and regulations under subsection (h). Thereafter, the Board shall make an annual report to the Congress with respect to its activities and operations, together with such recommendations as it deems appropriate.

"(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

§ 104. Loan guarantees

Section 301 of the Defense Production Act of 1950 (50 U.S.C. App. 2091) is amended by adding at the end thereof a new subsection as follows:

"(e) (1) Except with the approval of the Congress, the maximum obligation of any guaranteeing agency under any loan, discount, advance, or commitment in connection therewith, entered into under this section shall not exceed \$20,000,000.

"(2) The authority conferred by this section shall not be used primarily to prevent the financial insolvency or bankruptcy of any person, unless

"(A) the President certifies that the insolvency or bankruptcy would have a direct and substantially adverse effect upon defense production; and

"(B) a copy of such certification, together with a detailed justification thereof, is transmitted to the Congress and to the Committees on Banking and Currency of the respective Houses at least ten days prior to the exercise of that authority for such use."

TITLE II—COST OF LIVING
STABILIZATION

§ 201. Short title

This title may be cited as the "Economic Stabilization Act of 1970".

§ 202. Presidential authority

The President is authorized to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970. Such orders and regulations may provide for the making of such adjustments as may be necessary to prevent gross inequities.

§ 203. Delegation

The President may delegate the performance of any function under this title to such officers, departments, and agencies of the United States as he may deem appropriate.

§ 204. Penalty

Whoever willfully violates any order or regulation under this title shall be fined not more than \$5,000.

§ 205. Injunctions

Whenever it appears to any agency of the United States, authorized by the President to exercise the authority contained in this section to enforce orders and regulations issued under this title, that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation or order under this title, it may in its discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the agency, any such court may also issue mandatory injunctions commanding any person to comply with any regulation or order under this title.

§ 206. Expiration

The authority to issue and enforce orders and regulations under this title expires at midnight February 28, 1971, but such expiration shall not affect any proceeding under section 204 for a violation of any such

order or regulation, or for the punishment for contempt committed in the violation of any injunction issued under section 205, committed prior to March 1, 1971.

And the House agree to the same.

WRIGHT PATMAN,
LEONOR K. SULLIVAN,
HENRY S. REUSS,
THOMAS L. ASHLEY,

Managers on the Part of the House.

JOHN SPARKMAN,
WILLIAM PROXMIRE,
EDMUND S. MUSKIE,
WALTER F. MONDALE,
ERNEST F. HOLLINGS,
CHARLES E. GOODELL,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3302) to amend the Defense Production Act of 1950, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

GENERAL SUMMARY

The effect of the conference substitute may be summarized as follows:

The House conferees agreed to recede to the Senate version concerning the provisions dealing with uniform accounting standards with two amendments.

The Senate conferees agreed to recede to the House version as it relates to Title II on standby wage, price, salary and rent controls, with an amendment.

The House conferees agreed to recede to the Senate version as it relates to limitations placed on the use of Defense Production Act loan guarantees.

DETAILED EXPLANATION

The House version of S. 3302 established a five-member Cost-Accounting Standards Board appointed and chaired by the Comptroller General, and made up of two members of the accounting profession (one with knowledge of small business accounting practices), one representative of industry and one representative of a Government agency, all serving four-year terms. The Board was given the power to recommend to the Congress by June 30, 1971, and each June 30 thereafter, cost accounting standards designed to achieve uniformity and consistency for use by defense contractors and subcontractors for negotiated contracts.

The version agreed to by the conferees would establish the same five-man Cost-Accounting Standards Board as created under the House version and would include the provision that one of the two professional accountants on the Board must have knowledge of small business accounting. The House conferees agreed to the Senate version that the Board would have the power to promulgate cost accounting standards designed to achieve uniformity and consistency for use by defense contractors and subcontractors for negotiated contracts, but these standards would not be applied to:

- (1) contracts of \$100,000 or less;
- (2) negotiated contracts where prices are established by catalog or market price of commercial items sold in substantial quantities to the general public;
- (3) utility rates set by law or regulation;
- (4) where the Board finds it is not necessary to apply the standards to certain classes of contractors because of the size of the contracts or otherwise.

In addition, the House conferees insisted that the Senate version be changed to require that any proposed standards, rules or regulations to be promulgated by the Board be transmitted to Congress for 60 days of continuous session, during which Congress could

by concurrent resolution block the proposed standards from taking effect.

However, minor and technical modifications in already promulgated standards, rules or regulations which do not in effect constitute the issuance of new standards, rules or regulations would not have to be submitted to Congress prior to promulgation.

The compromise version also contained various administrative and enforcement provisions concerning uniform accounting standards contained in the Senate version of S. 3302.

The House version of S. 3302 gave the President standby authority to stabilize prices, wages, salaries, rents and interest rates at levels not less than those prevailing on May 25, 1970, but adjustments could be made to avoid inequities. This authority would expire February 28, 1971. The Senate conferees receded to the House on this entire provision except for the deletion of interest rates from the standby controls title. This amendment was accepted by the House conferees because the President was already given standby authority to control interest rates under Public Law 91-151 passed by the Congress in December, 1969.

The House version of S. 3302 did not contain any amendments affecting the Defense Production Act loan guarantee program. The Senate version limited these loan guarantees to a maximum of \$210 million per contractor, except with Congressional approval. It also prohibits the use of the Defense Production Act loan guarantee program primarily to prevent insolvency or bankruptcy unless the President certifies in detail to Congress that such a business failure would have a direct and substantially adverse effect upon defense production and presents his certification at least ten days prior to such loan guarantee. The House receded to the Senate version on this provision because of the need to prevent unwarranted use of DPA loan guarantees without adequate safeguards.

WRIGHT PATMAN,
LEONOR K. SULLIVAN,
HENRY S. REUSS,
THOMAS L. ASHLEY,

Managers on the Part of the House.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. FLYNT (at the request of Mr. Boggs) for today, on account of official business.

To Mr. RYAN (at the request of Mr. KOCH) for the week of August 10, on account of illness.

To Mr. O'HARA (at the request of Mr. ALBERT) for August 10, 11, and 12, on account of illness.

To Mr. HAGAN (at the request of Mr. ALBERT) for August 10, on account of official business.

To Mr. MCKNEALLY (at the request of Mr. GERALD R. FORD) for August 10 and 11, on account of serious illness in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. FEIGHAN for 30 minutes, Tuesday, August 11, to revise and extend his remarks and include extraneous material.

Mr. MAHON for 5 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. SCHWENGEL) to revise and